
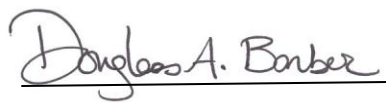


Approved: Meeting No. 25-13

Attest:

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
May 13, 2013  
Meeting No. 17-13  
7:00 p.m.

**Executive Session pursuant to Section 10-508(a)(1)(i) of the State Government Article of the Annotated Code of Maryland to discuss the employment, assignment, compensation, and performance evaluation of the City Clerk/Treasurer, an employee over whom it has jurisdiction.**

The Mayor and Council met in Executive Session on May 13, 2013, at 6:00 p.m. in the Diamond Back Terrapin Conference Room, City Hall, 111 Maryland Avenue, Rockville, Maryland.

Councilmember Hall made the motion to convene in Executive Session seconded by Councilmember Newton and passed unanimously.

Present at the Executive Session were Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala. Also present were City Clerk/Treasurer Doug Barber.

The topic of discussion was the City Clerk/Treasurer's annual evaluation

The Mayor and Council voted to grant leave to the City Clerk in accordance with the City's personnel policy.

The Mayor and Council adjourned the Executive Session at 6:38 p.m.

Present:

Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala.

Staff Present:

City Manager Barbara Matthews, City Clerk/Treasurer Doug Barber, and City Attorney Debra Daniel.

## **1. Convene**

The Mayor and Council convened in a regular meeting at 7:01 p.m. on Monday, May 13, 2013, in the Mayor and Council Chambers, City Hall, 111 Maryland Avenue, Rockville, Maryland.



## **2. Pledge of Allegiance**

Mayor Marcuccio led the Pledge of Allegiance.

## **3. Agenda Review**

There were no changes to the agenda.

## **4. City Manager's Report**

City Manager Matthews reported:

- Earlier in the day, Senator Ben Cardin held a press conference at the Rockville Police Station to announce his Blue Alert Legislation.
- Opening of the 2013 Farmer's Market (Saturday May 11, 2013) with new addition of Capricorn Farms, which sells goat cheese. The market is also offering Electronic Benefit Transfer (EBT) Cards and offers a \$10.00 match provided by the support of the following community organizations: Washington Elks Lodge #15; Lions Club; the Recreation and Parks Foundation; the Rotary club; and JBG Companies.
- Invitation - Annual Rockville Ride of Silence on Wednesday, May 15, 2013, at 7:00 p.m. at the Rockville Library to honor those that have been injured or killed while cycling on roadways.

Mayor Marcuccio noted the passing of David L. Cahoon, who served as the City Attorney for Rockville at one time, was a judge of the Montgomery County Circuit Court, a longtime member of St. Mary's Church, and a past chair of the Rockville Charter Review Commission.

## **5. Appointments/Reappointments and Announcements of Vacancies**

Mayor Marcuccio announced that there are vacancies on the following Boards and/or Commissions: Board of Appeals, Financial Advisory Board, Human Services Advisory Commission, Human Rights Commission, Landlord Tenant Affairs Commission, Planning Commission, and the Retirement Board.

Mayor Marcuccio noted to the Council that she hopes to appoint the Financial Advisory Board members at the next Mayor and Council meeting; and asked them to review the applications we have received to date.



**6. Proclamation Declaring Saturday, May 18, 2013, at National Kids to Parks Day in Rockville**

Mayor Marcuccio read the proclamation and presented it to Kate Savage, Chair of the Recreation and Parks Advisory Board.

**Motion:** to proclaim Saturday, May 18, 2013, as National Kids to Parks Day in Rockville.

Moved by Councilmember Hall, seconded by Councilmember Moore, and unanimously approved.

Ms. Roline Milfort, Recreation and Parks Advisory Boardmember, addressed the audience on the benefits of taking our kids to parks. The City of Rockville will celebrate National Kids to Park Day on Saturday, May 18, 2013, from 9:00 a.m. until 5:00 p.m. at the Croydon Creek Nature Center.

**7. Public Hearing on Community Needs and Priorities for Rockville's Upcoming Application for Community Development Block Grant Funds (CDBG Program Year 40/FY 2015)**

City Planner Erin Wilson presented the staff report on community needs and priorities for Rockville's upcoming application for the Community Development Block Grant Funds (CDBG Program Year 40/FY 2015).

The Mayor and Council convened in Public Hearing on the Community Needs and Priorities for Rockville's Upcoming Application for Community Development Block Grant Funds (CDBG Program Year 40/FY 2015) at 7:11 p.m. Mayor Marcuccio verified with the City Clerk that the public hearing had been properly advertised. The Mayor and Council heard from three speakers. There being no other speakers, Mayor Marcuccio declared the public hearing closed at 7:51 p.m. The Mayor and Council requested that the public hearing record remain open until Friday, May 31, 2013, at 5:00 p.m. A complete transcript of the public hearing can be found in the official file in the Office of the City Clerk.

City Planner Wilson noted that the staff will return to the Mayor and Council on June 10, 2013, for discussion and instructions on the Community Development Block Grant (CDBG) priorities for the upcoming application process.

**8. Citizen's Forum**

*Citizen*

*Issue*

Julie Palakovich Carr

Agenda Item # 14 - Discussion – Adequate Public Facilities Ordinance (APFO) – Discussion of Planning Commission Recommendations

Beryl L. Feinberg

Highlighted the Announcement of Montgomery County Executive Ike Leggett's Night-time Economy Taskforce



## **9. Mayor and Council's Response to Citizen's Forum and Announcements**

Councilmember Moore asked Ms. Maso additional questions on the Richard Montgomery cluster moratorium. Councilmember Moore noted that it is not the entire Richard Montgomery cluster that is included in the moratorium, only those that are located in the City of Rockville. Ms. Maso acknowledged and confirmed Councilmember Moore's statement.

## **10. Mayor and Council Reports**

Councilmember Pierzchala noted he attended the College Garden Civic Association meeting where Charter Review Commission Chair Steven VanGrack provided a Charter Review Commission review to the association. Councilmember Pierzchala also attended the Lincoln Park Civic Association meeting where a presentation was given by the Historic District Commission. Councilmember Pierzchala closed by noting the Mayor and Council's attendance at the "Great Gatsby" movie premiere event held at the Regal Theatres.

Councilmember Moore attended the Rockville Sister City event reception on Saturday, May 11, 2013, to thank Nelson and Jane Hsu for their donation of peonies to the friendship garden that we established with Jiaxing, China.

## **11. Introduction of an Ordinance to Amend Ordinance # 7-13 to Appropriate Funds and Levy Taxes for Fiscal Year (FY) 2013**

**Motion:** to introduce an Ordinance to amend Ordinance # 7-13 to appropriate funds and levy taxes for fiscal year (FY) 2013

Moved by Councilmember Hall.

## **12. Approval of the Countywide Transit Corridors Functional Master Plan (CTCFMP)**

City Planner III Wallas provided a brief overview of the Countywide Transit Corridors Functional Master Plan. The Mayor and Council received a presentation from Maryland-National Capital Park and Planning Commission (M-NCPPC) staff on April 22, 2013, and discussed proposed testimony at the May 6, 2013, meeting. As a result of discussions during the May 6, 2013, meeting, the Mayor and Council decided to submit two letters (one to the Chair of the Montgomery Planning Board and the other to the County Executive and County Council Chair). Direction was provided to staff on the proposed letters to be submitted on behalf of the Mayor and Council, as the staff was seeking the Mayor and Council's approval. Ms. Wallas noted that as requested by the Mayor and Council the comments from the Rockville Planning Commission and the Traffic and Transportation Commission were attachments to the proposed letters. Ms. Wallas additionally noted that the Montgomery County Planning Board's Public Hearing is scheduled for May 16, 2013, and public comment is invited. Ms. Wallas advised the Mayor and Council that no date has been set for the public record to close, but the record may close as early as May 16, 2013, or soon after. The Mayor and Council discussed the proposed letters, requesting the conclusions in the proposed letter be re-ordered, staff noted that change and will make the correction.



**Motion:** to approve the letters of testimony from the City of Rockville regarding the Countywide Transit Corridors Functional Master Plan (CTCFMP) to be sent to the Montgomery County Planning Board Chair and the Montgomery County Executive and County Council Chair.

Moved by Councilmember Moore, seconded by Councilmember Hall, and unanimously approved.

**13. Adoption of Resolution to Cause an Advisory Referendum of the City Voters to be Taken on Questions Concerning 1) Increasing the Term of Office for the Mayor and Councilmembers from Two to Four Years; 2) Holding City Elections Every Four Years to Coincide with the Presidential Election; and 3) Increasing the Membership of the Rockville City Council from Four to Six Members**

The Mayor and Council discussed the proposed resolution. Councilmember Hall provided an amendment to the resolution.

The Question was presented as the following:

Question No. 2

City of Rockville elections are currently every two years, in odd-numbered years. Do you favor moving the City election to be held once every four years to coincide with the Presidential Election?

Councilmember Hall and Councilmember Moore proposed edits (bolded) to the resolution as the following:

Question No. 2

City of Rockville elections are currently **held** every two years, in odd-numbered years. Do you favor moving the City elections to be held (**once**) every four years to coincide with the Presidential Election?

**Motion:** to adopt a Resolution as amended to capture the changes to Question No. 2, as stated by Councilmember Pierzchala, and to Cause an Advisory Referendum of the City Voters to be Taken on Questions Concerning 1) Increasing the Term of Office for the Mayor and Councilmembers from Two to Four Years; 2) Holding City Elections Every Four Years to Coincide with the Presidential Election; and 3) Increasing the Membership of the Rockville City Council from Four to Six Members.

The questions of statements as adopted:

The Mayor and Council of the City of Rockville appointed a Charter Review Commission to review election and governance-related portions of the City's Charter. The Commission issued a report recommending three revisions to the City's Charter. The Mayor and Council seek your opinion on the following questions concerning potential revisions to the City's Charter and will take your response into consideration in determining whether or not to amend the Charter:



Question No. 1

In the City of Rockville, the term of office for the Mayor and the Councilmembers is currently two years. Do you favor increasing the term from two years to four years?

Yes

No

No Opinion

Question No. 2

City of Rockville elections are currently held every two years, in odd-numbered years. Do you favor moving the City elections to be held every four years to coincide with the Presidential Election?

Yes

No

No Opinion

Question No. 3

The City of Rockville is currently governed by a Mayor and four Councilmembers. Do you favor increasing the membership of the Rockville Mayor and Council to a Mayor and six Councilmembers?

Yes

No

No Opinion

Moved by Councilmember Pierchala, seconded by Councilmember Moore, and passed unanimously.

**14. Discussion – Adequate Public Facilities Ordinance (APFO) – Discussion of Planning Commission Recommendations**

Zoning Administrator Mellander provided the staff report on the item. Mr. Mellander provided the Mayor and Council with an overview of the Adequate Public Facilities Ordinance (APFO) as it has been developed and where the City is currently in the review process. Mr. Mellander noted that the Mayor and Council initially adopted the Adequate Public Facilities Ordinance and companion Standards manual in November 2005. The Ordinance is Article 20 of the Zoning Ordinance. The standards set the level of service for Traffic, Schools, Emergency Service, and



Water and Sewer services. The City has amended the Adequate Public Facilities Standards (APFS) twice since the original adoption. The first amendment, adopted on February 28, 2011, exempted portable classrooms from the requirements of the APFS provisions. The second amendment, adopted in June 11, 2011, allowed for the APFS test for schools to be deemed acceptable if it met the County's school facility test for properties subject to annexation into the City. The Adequate Public Facilities Standards establish the test criteria and are approved by resolution. The APF Standards cover the following:

- **Traffic and Transportation**
  - Traffic and Transportation – Uses the City's Comprehensive Transportation Review (CTR) as the basis for evaluation.
    - More than 30 net new trips requires traffic study
    - Traffic analysis area and intersections determined by the number of net new trips in consultation with Traffic and Transportation staff
    - Mitigation of intersections may be required to meet Critical Lane Volume (CLV) standards
- **School Capacity**
  - Schools – For new residential development to be approved, there must be capacity within two years of the project approval.
    - Schools cannot exceed 110% of program capacity
    - Test is on a school-by-school basis, not cluster average that the County uses. (Noted: The maximum that the County uses is 120%)
    - All approved development both inside and outside the City must be accounted for capacity in projections
    - Capacity data based on Montgomery County Public Schools (MCPS) projections
- **Fire and Emergency Services**
  - Fire and Emergency Services – Full response from 3 stations within 10 minutes for certain public assembly uses (hospitals, schools, nursing homes, etc.)
- **Water Supply and Sewer System Capacity**
  - Water Supply and Sewer Service – Initial determination of adequate supply and sewerage transmission capacity at project review. The final check for local service to project is at building permit review.

Mr. Mellander noted that the Citizens' Committee review of the APFO was completed in November 2011. The Rockville Planning Commission appointed a nine-member citizens committee to review the APFO and APFS to determine if any amendments to either document were in order. The committee met from January through August of 2011 and submitted a final report to the Planning Commission in November 2011. The report was also provided to the Mayor and Council (March 23, 2012). In May 2012, the Planning Commission undertook a review of the APFS in light of the study committee's recommendations. On October 10, 2012, the commission transmitted comment and recommendations on the school capacity issues. The commission then took up review of the traffic and transportation issues from the committee report. The commission forwarded its comments and observations to the Mayor and Council on February 28, 2013. The recommendations generally support the current APFS tests for schools and traffic.



The Mayor and Council discussed at length with City staff providing clarification to questions posed on the item. Councilmember Moore and Councilmember Hall provided to the Mayor and Council their own presentations on the APFO.

Councilmember Moore addressed the Mayor and Council with his comments regarding the APFO review principles. The following key points were noted:

- APFO Background
  - APFO has not yet received a comprehensive evaluation by the Mayor and Council
  - Needs to justify its existence
- Personal Perspective
  - Number of his children enrolled in Montgomery County Public Schools (Projected)
- APFO Review Principles
  - Recognize that while there may be a lack of adequate infrastructure in certain areas (depending on how it is assessed), Rockville needs growth laws that balance infrastructure needs with other City priorities in order to ensure responsible new development and growth.
  - Give due regard for the recommendations of the City commissions and committees while recognizing the limits under which those commissions and committees operated.
- Current APFO Review
  - APFO Committee's review was comprehensive within the limited scope assigned by the Planning Commission
  - Planning Commission's report is also limited in its scope
  - Left to Mayor and Council to conduct a full review of this law
- Key APFO Issue # 1
  - APFOs are supposed to serve as an indicator of where public investment is needed, and direct money to top priority infrastructure needs.
  - Because of the lack of ability to remediate school capacity (and, to a lesser extent, fire and rescue issues), our APFO operates only to block development.
- Key APFO Issue # 2
  - Rockville's APFO values public facilities over all else.
  - No opportunity for policymakers to assess whether the public facilities goal is outweighed by other City goals, such as: better affordable housing, access to state funds, or a more vibrant downtown.
- APFO Review Next Steps
  - Public Hearing (should we have an APFO)
  - Staff input on current provisions
  - Additional questions for staff to research, given our expanded task
  - Mayor and Council determination of City's goals for our development laws
  - Mayor and Council action



- Research Questions (1)
  - What metrics are available to track progress toward goals?
  - What costs are the City bearing as a result of the APFO?
    - Loss of investments in Town Center II
    - Loss of affordable housing expansion opportunities
    - Inability to comply with Smart Growth goals
    - Risks to State growth-related project funding
- Research Questions (2)
  - What alternatives to an APFO exist?
  - How does our APFO fit with the State's Priority Funding Areas initiative?
  - What is the status of the Richard Montgomery High School moratorium?
  - Does our APFO meet legal requirements for imposing moratoria that could be permanent?
  - Has the County ever acted based on our APFO, not its own?
- City Council Questions
  - What are our goals for the APFO today?
    - Situation is very different from when APFO was passed
  - Is an APFO still the appropriate tool to serve these goals
  - What is the justification for supermajority requirements?
    - Entire ordinance can be repealed with simple majority
    - Timing on waiver votes is unlikely to make any difference

Councilmember Hall addressed the Mayor and Council with his comments regarding the APFO review principals. The following key points were noted:

#### Key Principals for APFO & APFS Revisions

- Recognize that the lack of adequate infrastructure -not the law is the fundamental obstacle confronting responsible new development and growth
- Give due regard for the recommendations of the City Commissions and Committees to which residents, businesses, developers, and other stakeholders have given their time and talents
- Acquiesce in previously-enacted APFS revisions regarding school portables
- Ensure that the APFS is fully consistent with the APFO
- Reduce litigation exposure for the City and its taxpayers related to the APFO and APFS
- Understand that development pursuant to annexation imposes no fewer impacts-as a class-than does other prospective development

Councilmember Moore and Councilmember Hall have requested a public hearing on the item. The Mayor and Council discussed at length. The Mayor and Council requested the issue be placed on a future agenda (July 2013) for additional discussion.

#### **15. Review and Comment Regarding Mayor and Council Action Report**

Councilmember Newton requested a status update on RedGate Golf Course.



**16. Review and Comment Regarding Future Agendas**

The Mayor and Council had no comments.

**17. Old/New Business**

The Mayor and Council had no comments.

**18. Adjournment**

There being no further business, the meeting adjourned at 9:13 p.m.

**Motion:** to adjourn

Moved by Councilmember Moore, seconded by Councilmember Hall, and passed unanimously.